

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Jay H. Marx, <i>et al.</i>	:	
	:	Case No. C-1-02-050
Plaintiffs	:	
	:	District Judge Susan J. Dlott
v.	:	
	:	ORDER DENYING AS MOOT THE
Lt. Colonel Richard Janke, <i>et al.</i>	:	MOTION TO STRIKE
	:	
Defendants	:	

This matter comes before the Court on the Defendants' Motion to Strike (doc. #26). For the reasons that follow, the Court **DENIES AS MOOT** Defendant's motion.

I. BACKGROUND AND ANALYSIS

On January 7, 2003, Defendants moved to dismiss the Plaintiffs' Fourth Amended Complaint arguing, in part, that the claims against the City of Cincinnati failed because Plaintiffs did not adequately plead that the City had an unconstitutional policy or custom. On March 3, 2003, Plaintiffs filed a memorandum opposing the motion to dismiss and attached thereto the following three documents as exhibits A, B, and D:

- Report of the Mayor's Community Relations Panel to the Council of the City of Cincinnati / "Hawkins Report" July 5, 1979;
- "Policing in Cincinnati, Ohio Official Policy v. Civilian Reality" 1981 / The Ohio Advisory Committee to US Commission on Civil Rights; and
- MEMORANDUM OF AGREEMENT / Between the United States Department of Justice and the City of Cincinnati, Ohio and the Cincinnati Police Department / April 12, 2002.

(Doc. #23 exs. A, B, D.) Plaintiffs contended that the exhibits supported their allegations that the City had an official unconstitutional policy or custom. On April 14, 2003, Defendants filed one pleading which purported to be both (1) a reply memorandum in support of their motion to

dismiss and (2) a motion to strike Plaintiffs' exhibits A, B, and D. (Doc. #26.)¹ Defendants argue that Plaintiffs' exhibits A, B, and D are irrelevant and inadmissible. Plaintiffs did not respond to the motion to strike.

As the Court did not consider or rely upon Plaintiffs' exhibits A, B, and D in ruling upon the motion to dismiss, (Order Granting in Part and Denying In Part Motion to Dismiss the Fourth Amended Complaint at 14 n. 3), the Court need not determine the relevance or admissibility of the exhibits at this time.

II. CONCLUSION

For the foregoing reasons, the Motion to Strike (doc. #26) is **DENIED AS MOOT**.

IT IS SO ORDERED.

s/Susan J. Dlott
Susan J. Dlott
United States District Judge

¹ It should be noted that Defendants failed to comply with the Local Rules of the Southern District of Ohio when they filed the instant motion to strike. Local Rule 7.2(a)(1) instructs that "[a]ll Motions and applications tendered for filing shall be accompanied by a memorandum in support thereof which shall be a brief statement of the grounds, with citation of authorities relied upon." Defendants' motion to strike was not submitted as a motion accompanied by a memorandum in support, but rather as a motion, and a memorandum related primarily to another matter, combined in one document.